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AMENDED IN SENATE AUGUST 7, 2014
AMENDED IN SENATE AUGUST 4, 2014
AMENDED IN SENATE JUNE 23, 2014
AMENDED IN ASSEMBLY APRIL 23, 2014
AMENDED IN ASSEMBLY APRIL 21, 2014
AMENDED IN ASSEMBLY APRIL 1, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2503

Introduced by Assembly Member Hagman

February 21, 2014

An act to amend Sections 7500.2, 7502.2, ~~7505.3, 7507.3~~, 7507.115, 7508.1, 7508.4, and 7508.5 of, and to amend and renumber Section 7505.2 of, the Business and Professions Code, to amend Section 41612 of the Government Code, and to amend Sections 28, 4000, and 11705 of, and to add Section 10856 to, the Vehicle Code, relating to reposseors, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2503, as amended, Hagman. Repossessors.

(1) Existing law, the Collateral Recovery Act, provides for the licensure and regulation of repossession agencies by the Bureau of Security and Investigative Services. A violation of the act is a crime.

This bill would require a repossession agency to only transact business with a person or entity as an independent contractor, and would prohibit a licensed repossession agency from allowing a person or entity, other than the qualified certificate holder *or the owner or officer of the repossession agency*, to manage the day to day operations, operate, control, or transact business under the license of the repossession agency, *except as specified*. By expanding the scope of a crime, the bill would impose a state-mandated local program.

(2) Under existing law, a financial institution that knowingly engages a nonexempt unlicensed person to repossess collateral on its behalf is guilty of a misdemeanor.

This bill would expand the above crime to apply to a buy-here-pay-here dealer, as defined. By expanding the scope of a crime, the bill would impose a state-mandated local program.

~~(3) Existing law allows a repossession business to continue on a license for 120 days when the qualified certificate holder actively in charge of the office ceases to be in charge because of the death of the licenseholder. Existing law requires a written notice to be made to the Bureau of Security and Investigative Services.~~

~~This bill would increase the period to 180 days and would require the written notice to identify the person in charge of running the day-to-day operations of the business.~~

~~(4)~~

(3) Existing law prohibits a reposessor from appraising the value of any collateral.

The bill would further prohibit the appraisal or determination of the value of any collateral, whether damaged or not. The bill would also require a specified statement on condition reports and would specify that condition reports do not include all damage or missing parts. By expanding the scope of a crime, the bill would impose a state-mandated local program.

~~(5)~~

(4) Existing law authorizes the Director of Consumer Affairs to assess administrative fines for various prohibited acts, including using any identification to indicate registration as a reposessor, other than a registration card issued by the Bureau of Security and Investigative Services, except an employer identification card issued by the repossession agency which has bureau approval. Existing law allows an employee of a repossession agency to wear a badge, cap insignia, or jacket patch meeting specified requirements.

This bill would except a badge, cap insignia, or jacket patch from the prohibition on using any identification to indicate registration as a reposessor.

~~(6)~~

(5) Existing law authorizes the Director of Consumer Affairs to assess an administrative fine for the failure to present a debtor with an itemized receipt of payment, if payment is made in lieu of repossession.

This bill would delete this provision.

~~(7)~~

(6) Existing law requires that when possession is taken of a vehicle by or on behalf of a legal owner under the terms of a security or lease agreement, the debtor pay the police or parking authority a specified fee. Existing law prohibits the release of the vehicle to the debtor until the debtor provides proof of payment or pays the fee and an administrative fee to the person in possession or the legal owner. Existing law also provides for a fine if the fee is not transmitted to the police or parking authority. Existing law requires proof of payment to be retained by the party releasing possession to the debtor.

This bill would delete the provisions that allow the release of a vehicle to a debtor who pays the fee and an administrative fee to the person in possession or the legal owner. The bill would make other conforming changes to this provision.

~~(8)~~

(7) Existing law requires the person taking possession of a vehicle whenever possession is taken by or on behalf of any legal owner under the terms of a security agreement or lease agreement to notify local law enforcement within one hour of the repossession, as specified. Violation of these provisions is a crime.

This bill would require the reposessor to contact law enforcement within one hour of the repossession, would specify information that would be required to be provided in the notification, and, if law enforcement is unable to receive and record the notification, require the person to continue to attempt notification until the required information is provided, as specified.

By expanding the provisions of existing law, the violation of which is a crime, this bill would impose a state-mandated local program.

~~(9)~~

(8) Existing law prohibits a person from driving, moving, or leaving standing upon a highway or offstreet public parking facility any motor vehicle or other specified vehicle, unless it is registered and the

appropriate fees have been paid. Existing law provides that a vehicle repossessed pursuant to the terms of a security agreement is exempt from registration solely for the purpose of transporting the vehicle from the point of repossession to the storage facilities of the reposessor, and from the storage facilities to the legal owner or a licensed motor vehicle auction, provided that the reposessor transports with the vehicle the appropriate documents authorizing the repossession and makes them available to a law enforcement officer on request.

This bill would additionally exempt from the registration requirement a vehicle obtained by a licensed reposessor as a release of collateral for the purpose of removing the vehicle to the storage facility or the facility of the legal owner. The bill requires a law enforcement agency, impounding authority, tow yard, storage facility, or any other person or entity that has possession of the vehicle to release the vehicle without requiring current registration. The bill would require a legal owner of collateral to hold a law enforcement agency, city, county, city and county, the state, a tow yard, storage facility, or impound yard harmless from liability if collateral is released in compliance with statute.

~~(10)~~

(9) Existing law establishes offenses for, among other things, willfully tampering or injuring a vehicle or its contents, as specified.

This bill would prohibit a person from interfering with the transport of a vehicle or other collateral to a storage facility, auction, or dealer by an individual who is employed by a repossession agency or is licensed as a repossession agency once repossession is complete, as provided. Violation of these provisions would be an infraction pursuant to other provisions of law.

By creating a new crime, this bill would impose a state-mandated local program.

~~(11)~~

(10) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~(12)~~

(11) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 7500.2 of the Business and Professions
2 Code is amended to read:

3 7500.2. (a) A repossession agency means and includes any
4 person who, for any consideration whatsoever, engages in business
5 or accepts employment to locate or recover collateral, whether
6 voluntarily or involuntarily, including, but not limited to, collateral
7 registered under the provisions of the Vehicle Code which is
8 subject to a security agreement, except for any person registered
9 pursuant to Article 7 (commencing with Section 7506).

10 (b) A repossession agency licensed pursuant to this chapter shall
11 only transact ~~business~~; *business with another person or entity as*
12 *an independent contractor.*

13 (c) A repossession agency shall not allow a person or entity
14 other than the qualified certificate holder, as provided in Section
15 7505.1, *or the owner or officer of the repossession agency*, to
16 manage the day to day operations, operate, control, or transact
17 business covered by this act, *except as provided in Section 7503.3.*

18 SEC. 2. Section 7502.2 of the Business and Professions Code
19 is amended to read:

20 7502.2. (a) A financial institution or a buy-here-pay-here
21 dealer, as defined by Section 241 of the Vehicle Code, that
22 knowingly engages a nonexempt unlicensed person to repossess
23 collateral on its behalf is guilty of a misdemeanor, and is punishable
24 by a fine of five thousand dollars (\$5,000).

25 (b) Within existing resources, the Commissioner of Business
26 Oversight may designate employees to investigate and report on
27 violations of this section by any of the licensees of ~~the~~ *their*
28 department. Those employees are authorized to actively cooperate
29 with the bureau in the investigation of those activities.

30 (c) A proceeding to impose the fine specified in subdivision (a)
31 may be brought in any court of competent jurisdiction in the name
32 of the people of the State of California by the Attorney General
33 or by any district attorney or city attorney, or with the consent of
34 the district attorney, by the city prosecutor in any city or city and
35 county having a full-time city prosecutor, for the jurisdiction in
36 which the violation occurred. If the action is brought by a district
37 attorney, the penalty collected shall be paid to the treasurer of the
38 county in which the judgment is entered. If the action is brought

1 by a city attorney or city prosecutor, one-half of the penalty
2 collected shall be paid to the treasurer of the city in which the
3 judgment was entered and one-half to the treasurer of the county
4 in which the judgment was entered. If the action is brought by the
5 Attorney General, all of the penalty collected shall be deposited
6 in the Private Security Services Fund.

7 SEC. 3. Section 7505.2 of the Business and Professions Code
8 is amended and renumbered to read:

9 7507.125. Nothing in this chapter prohibits the using or taking
10 of personal effects that are connected, adjoined, or affixed to the
11 collateral through an unbroken sequence, if that use or taking is
12 reasonably necessary to effectuate the recovery in a safe manner
13 or to protect the collateral or personal effects. Nothing in this
14 chapter prohibits the removal of a locking mechanism or security
15 device on the collateral, before, during, or after a repossession. No
16 storage fee shall be charged for the first week on any personal
17 effects used to effectuate a recovery pursuant to this section. Any
18 personal effects used or taken pursuant to this section shall be
19 processed in a reasonably expedient manner pursuant to Sections
20 7507.9 and 7507.10.

21 ~~SEC. 4. Section 7505.3 of the Business and Professions Code~~
22 ~~is amended to read:~~

23 ~~7505.3. (a) Whenever a qualified certificate holder actively~~
24 ~~in charge of an office ceases to be in charge, the licensee shall file~~
25 ~~with the bureau notice, in writing, within 30 days from the~~
26 ~~cessation.~~

27 ~~If the notice is filed, the license shall remain in force for a period~~
28 ~~of 90 days after the filing of the notice. At the end of the 90-day~~
29 ~~period or an additional period, not to exceed one year, as specified~~
30 ~~by the director, if written notice is not given that a qualified person~~
31 ~~is then actively in charge of the office, the agency license shall be~~
32 ~~automatically suspended.~~

33 ~~If the licensee shall fail to give written notice at the end of the~~
34 ~~30-day period, the agency license shall be automatically suspended.~~

35 ~~A license suspended under this section may be reinstated upon~~
36 ~~payment of the reinstatement fee and submission of a reinstatement~~
37 ~~application.~~

38 ~~A person who performs any act for which a repossession agency~~
39 ~~license is required during the period of suspension is subject to~~
40 ~~the penal provisions of Article 3 (commencing with Section 7502),~~

1 in addition to the provisions of Article 9 (commencing with Section
2 7508) and Article 10 (commencing with Section 7510):

3 (b) ~~In case of the death of a person licensed as an individual, a~~
4 ~~member of the immediate family of the deceased licensee shall be~~
5 ~~entitled to continue the business under the same license for 180~~
6 ~~days following the death of the licensee, provided that written~~
7 ~~notice is made to the bureau within 30 days following the death~~
8 ~~of the licensee. The notice shall identify the person in charge of~~
9 ~~running the day-to-day operations of the business. At the end of~~
10 ~~the 180-day period, the license shall be automatically canceled. If~~
11 ~~no request is received within the 30-day period, the license shall~~
12 ~~be automatically canceled at the end of that period.~~

13 (c) ~~In the case of the death or disassociation of a partner of an~~
14 ~~entity licensed as a partnership, the licensee shall notify the bureau,~~
15 ~~in writing, within 30 days from the death or disassociation of the~~
16 ~~individual. If notice is given, the license shall remain in force for~~
17 ~~90 days following the death or disassociation. At the end of that~~
18 ~~period, the license shall be automatically canceled. If the licensee~~
19 ~~fails to notify the bureau within the 30-day period, the license shall~~
20 ~~be automatically canceled at the end of that period.~~

21 (d) ~~A license extended under this section is subject to all other~~
22 ~~provisions of this chapter.~~

23 ~~SEC. 5. Section 7507.3 of the Business and Professions Code~~
24 ~~is amended to read:~~

25 ~~7507.3. A repossession agency shall be required to keep and~~
26 ~~maintain adequate records of all transactions, including, but not~~
27 ~~limited to, assignment forms; vehicle report of repossession~~
28 ~~required by Section 28 of the Vehicle Code; vehicle condition~~
29 ~~reports, including odometer readings, if available; personal effects~~
30 ~~inventory; and notice of seizure. Records shall be retained for a~~
31 ~~period of not less than four years and shall be available for~~
32 ~~examination by the bureau upon demand. In addition, collateral~~
33 ~~and personal effects storage areas shall be made accessible for~~
34 ~~inspection by the bureau upon demand. An assignment form may~~
35 ~~be an original, a photocopy, a facsimile copy, or a copy stored in~~
36 ~~an electronic format.~~

37 ~~SEC. 6.~~

38 ~~SEC. 4. Section 7507.115 of the Business and Professions Code~~
39 ~~is amended to read:~~

1 7507.115. (a) A licensee shall not appraise or determine the
2 value of any collateral, whether damaged or not.

3 (b) (1) Notwithstanding subdivision (a), a licensee may
4 complete a condition report that makes a general assessment of
5 the collateral.

6 (2) A condition report does not include all damage or missing
7 parts.

8 (3) A condition report shall include the following statement:
9 “In accordance with Section 7505.115 of the Business and
10 Professions Code, this condition report is a general assessment of
11 the collateral and does not include all damage or missing parts.”

12 ~~SEC. 7.~~

13 *SEC. 5.* Section 7508.1 of the Business and Professions Code
14 is amended to read:

15 7508.1. The director may assess administrative fines for the
16 following prohibited acts:

17 (a) Knowingly making any false report to his or her employer
18 or client for whom information was being obtained. The fine shall
19 be one hundred dollars (\$100) for the first violation, and five
20 hundred dollars (\$500) for each violation thereafter.

21 (b) Using any identification to indicate registration as a
22 reposessor, other than the bureau-issued registration card, except
23 an employer identification card issued by the repossession agency
24 which has met bureau approval, or a badge, cap insignia, or jacket
25 patch as provided in Section 7508.8. A bureau-issued registration
26 card shall be carried by those individuals specified by Section
27 7506.3, and shall be shown on demand to any bureau employee
28 or law enforcement officer. The fine shall be twenty-five dollars
29 (\$25) for each violation.

30 (c) Using an alias in connection with the official activities of
31 the licensee’s business. A notice of warning shall be issued for the
32 first violation. Thereafter the fine shall be twenty-five dollars (\$25)
33 for each violation.

34 (d) Appearing as an assignee party in any court proceeding
35 involving claim and delivery, replevin, or other possessory court
36 action, action to foreclose a chattel mortgage, mechanic’s lien,
37 materialman’s lien, or any other lien. This section shall not prohibit
38 a licensee from appearing as a defendant in any of the preceding
39 actions. The fine shall be one hundred dollars (\$100) for each
40 violation.

~~SEC. 8.~~

SEC. 6. Section 7508.4 of the Business and Professions Code is amended to read:

7508.4. The director may assess administrative fines for any of the following prohibited acts:

(a) Conducting business from any location other than that location to which a license was issued or conducting a business as an individual, partnership, limited liability company, or corporation unless the licensee holds a valid license issued to that exact same individual, partnership, limited liability company, or corporation. The fine shall be one thousand dollars (\$1,000) for each violation.

(b) Aiding or abetting an unlicensed reposessor or assigning his or her license. "Assigning his or her license" means that no licensee shall permit a registrant, employee, or agent in his or her own name to advertise, engage clients, furnish reports, or present bills to clients, or in any manner whatsoever to conduct business for which a license is required under this chapter. The fine shall be one thousand dollars (\$1,000) for each violation.

(c) Failing to register registrants within 15 days. The fine shall be two hundred fifty dollars (\$250) for each of the first two violations and one thousand dollars (\$1,000) for each violation thereafter.

(d) Employing a person whose registration has expired or been revoked, denied, suspended, or canceled, if the bureau has furnished a listing of these persons to the licensee. The fine shall be twenty-five dollars (\$25) for each violation.

(e) Failing to notify the bureau, within 30 days, of any change in officers. A notice of warning shall be issued for the first violation. Thereafter, the fine shall be twenty-five dollars (\$25) for each violation.

(f) Failing to submit the notices regarding a violent act or threatened violent act within seven days pursuant to Section 7507.6 or to submit a copy of a judgment awarded against the licensee for an amount of more than the then prevailing maximum claim that may be brought in small claims court within seven days pursuant to Section 7507.7. The fine shall be twenty-five dollars (\$25) for the first violation and one hundred dollars (\$100) per violation thereafter.

(g) Failing to include the licensee's name, address, and license number in any advertisement. A notice of warning shall be issued

1 for the first violation. Thereafter, the fine shall be twenty-five
2 dollars (\$25) for each violation.

3 (h) Failing to maintain personal effects for at least 60 days. The
4 fine shall be twenty-five dollars (\$25) for the first violation and
5 one hundred dollars (\$100) for each violation thereafter.

6 (i) Failing to provide a personal effects list or a notice of seizure
7 within the time limits set forth in Section 7507.9 or 7507.10. The
8 fine shall be twenty-five dollars (\$25) for the first violation and
9 one hundred dollars (\$100) for each violation thereafter.

10 (j) Failing to file the required report pursuant to Section 28 of
11 the Vehicle Code. The fine shall be twenty-five dollars (\$25) for
12 each of the first five violations and one hundred dollars (\$100) for
13 each violation thereafter, per audit.

14 (k) Failing to maintain an accurate record and accounting of
15 secure temporary registration forms. The qualified certificate holder
16 shall be fined twenty-five dollars (\$25) for the first violation, one
17 hundred dollars (\$100) for the second violation, two hundred fifty
18 dollars (\$250) for the third violation, and two hundred fifty dollars
19 (\$250) plus a one-year suspension of the privilege to issue
20 temporary registrations pursuant to Section 7506.9 for the fourth
21 and subsequent violations.

22 (l) Representing that a licensee has an office and conducts
23 business at a specific address when that is not the case. The fine
24 shall be five thousand dollars (\$5,000) for each violation.

25 (m) Notwithstanding any other provision of law, the money in
26 the Private Security Services Fund that is attributable to
27 administrative fines imposed pursuant to subdivision (c) shall not
28 be continuously appropriated and shall be available for expenditure
29 only upon appropriation by the Legislature.

30 ~~SEC. 9.~~

31 *SEC. 7.* Section 7508.5 of the Business and Professions Code
32 is amended to read:

33 7508.5. The director may assess administrative fines against
34 a repossession agency registrant for the following acts, in addition
35 to fines imposed pursuant to any other section in this article. The
36 fine shall be twenty-five dollars (\$25) for each of the following
37 violations:

38 (a) Knowingly submit a false report.

39 (b) Submitting a report to a client without authorization by his
40 or her employer.

1 (c) Failing to carry a bureau-issued identification card and failing
2 to show that card upon demand to a bureau employee or a law
3 enforcement officer.

4 (d) Failing to register.

5 (e) Failing to return his or her registration card to the employer
6 upon termination.

7 (f) Failing to report a violent act involving the registrant to the
8 licensee or the licensee's qualified certificate holder within 24
9 hours.

10 ~~SEC. 10.~~

11 *SEC. 8.* Section 41612 of the Government Code is amended
12 to read:

13 41612. After possession is taken of any vehicle by or on behalf
14 of any legal owner thereof under the terms of a security agreement
15 or lease agreement, the debtor shall pay the chief of police or a
16 parking authority operated by a city and county a fee of fifteen
17 dollars (\$15) for the receipt and filing of the report of repossession
18 pursuant to Section 28 of the Vehicle Code before the vehicle may
19 be redeemed by the debtor. Any person in possession of the vehicle
20 shall not release it to the debtor without first obtaining proof of
21 payment of the fee to the chief of police or parking authority. The
22 proof of payment, or a copy thereof, shall be retained by the party
23 releasing possession to the debtor for the period required by law.
24 An individual working for a repossession agency licensed pursuant
25 to Chapter 11 (commencing with Section 7500) of Division 3 of
26 the Business and Professions Code shall not pay the fee to, or
27 retrieve the receipt from, the chief of police or parking authority.

28 ~~SEC. 11.~~

29 *SEC. 9.* Section 28 of the Vehicle Code is amended to read:

30 28. (a) Whenever possession is taken of any vehicle by or on
31 behalf of its legal owner under the terms of a security agreement
32 or lease agreement, the person taking possession shall contact, for
33 the purpose of providing the information required pursuant to
34 subdivision (d) within one hour, after taking possession of the
35 vehicle, by the most expeditious means available, the city police
36 department where the taking of possession occurred, if within an
37 incorporated city, or the sheriff's department of the county where
38 the taking of possession occurred, if outside an incorporated city,
39 or the police department of a campus of the University of California
40 or the California State University, if the taking of possession

1 occurred on that campus, and shall within one business day forward
2 a written notice to the city police or sheriff's department. If, after
3 an attempt to notify, law enforcement is unable to receive and
4 record the notification required pursuant to subdivision (d), the
5 person taking possession of the vehicle shall continue to attempt
6 notification until the information required pursuant to subdivision
7 (d) is provided.

8 (b) If possession is taken of more than one vehicle, the
9 possession of each vehicle shall be considered and reported as a
10 separate event.

11 (c) Any person failing to notify the city police department,
12 sheriff's department, or campus police department as required by
13 this section is guilty of an infraction, and shall be fined a minimum
14 of three hundred dollars (\$300), and up to five hundred dollars
15 (\$500). The district attorney, city attorney, or city prosecutor shall
16 promptly notify the Bureau of Security and Investigative Services
17 of any conviction resulting from a violation of this section.

18 (d) For the notification required by this section, the person shall
19 report only the following information and in the following order:

- 20 (1) The approximate location of the repossession.
- 21 (2) The date and approximate time of the repossession.
- 22 (3) The vehicle year, make, and model.
- 23 (4) The last six digits of the vehicle identification number.
- 24 (5) The registered owner as provided on the repossession
25 assignment.
- 26 (6) The legal owner requesting the repossession as provided on
27 the repossession assignment.
- 28 (7) The name of the repossession agency.
- 29 (8) The telephone number of the repossession agency.

30 ~~SEC. 12.~~

31 *SEC. 10.* Section 4000 of the Vehicle Code is amended to read:

32 4000. (a) (1) A person shall not drive, move, or leave standing
33 upon a highway, or in an offstreet public parking facility, any
34 motor vehicle, trailer, semitrailer, pole or pipe dolly, or logging
35 dolly, unless it is registered and the appropriate fees have been
36 paid under this code or registered under the permanent trailer
37 identification program, except that an off-highway motor vehicle
38 which displays an identification plate or device issued by the
39 department pursuant to Section 38010 may be driven, moved, or

1 left standing in an offstreet public parking facility without being
2 registered or paying registration fees.

3 (2) For purposes of this subdivision, “offstreet public parking
4 facility” means either of the following:

5 (A) Any publicly owned parking facility.

6 (B) Any privately owned parking facility for which no fee for
7 the privilege to park is charged and which is held open for the
8 common public use of retail customers.

9 (3) This subdivision does not apply to any motor vehicle stored
10 in a privately owned offstreet parking facility by, or with the
11 express permission of, the owner of the privately owned offstreet
12 parking facility.

13 (4) Beginning July 1, 2011, the enforcement of paragraph (1)
14 shall commence on the first day of the second month following
15 the month of expiration of the vehicle’s registration. This paragraph
16 shall become inoperative on January 1, 2012.

17 (b) No person shall drive, move, or leave standing upon a
18 highway any motor vehicle, as defined in Chapter 2 (commencing
19 with Section 39010) of Part 1 of Division 26 of the Health and
20 Safety Code, that has been registered in violation of Part 5
21 (commencing with Section 43000) of Division 26 of the Health
22 and Safety Code.

23 (c) Subdivisions (a) and (b) do not apply to off-highway motor
24 vehicles operated pursuant to Sections 38025 and 38026.5.

25 (d) This section does not apply, following payment of fees due
26 for registration, during the time that registration and transfer is
27 being withheld by the department pending the investigation of any
28 use tax due under the Revenue and Taxation Code.

29 (e) Subdivision (a) does not apply to a vehicle that is towed by
30 a tow truck on the order of a sheriff, marshal, or other official
31 acting pursuant to a court order or on the order of a peace officer
32 acting pursuant to this code.

33 (f) Subdivision (a) applies to a vehicle that is towed from a
34 highway or offstreet parking facility under the direction of a
35 highway service organization when that organization is providing
36 emergency roadside assistance to that vehicle. However, the
37 operator of a tow truck providing that assistance to that vehicle is
38 not responsible for the violation of subdivision (a) with respect to
39 that vehicle. The owner of an unregistered vehicle that is disabled
40 and located on private property, shall obtain a permit from the

1 department pursuant to Section 4003 prior to having the vehicle
2 towed on the highway.

3 (g) (1) Pursuant to Section 4022 and to subparagraph (B) of
4 paragraph (3) of subdivision (o) of Section 22651, a vehicle
5 obtained by a licensed reposessor *as a release of collateral is*
6 *exempt from registration pursuant to this section for purposes of*
7 *the reposessor* removing the vehicle to his or her storage facility
8 or the facility of the legal owner. A law enforcement agency,
9 impounding authority, tow yard, storage facility, or any other
10 person in possession of the collateral shall release the vehicle
11 without requiring current registration and pursuant to subdivision
12 (f) of Section 14602.6.

13 (2) The legal owner of collateral shall, by operation of law and
14 without requiring further action, indemnify and hold harmless a
15 law enforcement agency, city, county, city and county, the state,
16 a tow yard, storage facility, or an impounding yard from a claim
17 arising out of the release of the collateral to a licensee, and from
18 any damage to the collateral after its release, including reasonable
19 attorney's fees and costs associated with defending a claim, if the
20 collateral was released in compliance with this subdivision.

21 (h) For purposes of this section, possession of a California
22 driver's license by the registered owner of a vehicle shall give rise
23 to a rebuttable presumption that the owner is a resident of
24 California.

25 ~~SEC. 13.~~

26 *SEC. 11.* Section 10856 is added to the Vehicle Code, to read:

27 10856. (a) A person shall not interfere with the transport of a
28 vehicle to a storage facility, auction, or dealer by an individual
29 who is employed by a repossession agency or who is licensed
30 pursuant to Chapter 11 (commencing with Section 7500) of
31 Division 3 of the Business and Professions Code once repossession
32 is complete as provided in Section 7507.12 of the Business and
33 Professions Code. This subdivision shall not apply to a peace
34 officer while acting in an official capacity.

35 (b) Any tow yard, impounding agency, or governmental agency,
36 or any person acting on behalf of those entities, shall not refuse to
37 release a vehicle or other collateral to anyone that is legally entitled
38 to that vehicle or other collateral. This subdivision shall not apply
39 to a vehicle being held for evidence by law enforcement or a
40 prosecuting attorney.

~~SEC. 14.~~

SEC. 12. Section 11705 of the Vehicle Code is amended to read:

11705. (a) The department, after notice and hearing, may suspend or revoke the license issued to a dealer, transporter, manufacturer, manufacturer branch, remanufacturer, remanufacturer branch, distributor, or distributor branch upon determining that the person to whom the license was issued is not lawfully entitled thereto, or has done any of the following:

(1) Filed an application for the license using a false or fictitious name not registered with the proper authorities, or knowingly made a false statement or knowingly concealed a material fact, in the application for the license.

(2) Made, or knowingly or negligently permitted, an illegal use of the special plates issued to the licensee.

(3) Used a false or fictitious name, knowingly made a false statement, or knowingly concealed a material fact, in an application for the registration of a vehicle, or otherwise committed a fraud in the application.

(4) Failed to deliver to a transferee lawfully entitled thereto a properly endorsed certificate of ownership.

(5) Knowingly purchased, sold, or otherwise acquired or disposed of a stolen motor vehicle.

(6) Failed to provide and maintain a clear physical division between the type of business licensed pursuant to this chapter and any other type of business conducted at the established place of business.

(7) Willfully violated Section 3064 or 3065 or any rule or regulation adopted pursuant thereto.

(8) Violated any provision of Division 3 (commencing with Section 4000) or any rule or regulation adopted pursuant thereto, or subdivision (a) of Section 38200.

(9) Violated any provision of Division 4 (commencing with Section 10500) or any rule or regulation adopted pursuant thereto.

(10) Violated any provision of Article 1 (commencing with Section 11700) of Chapter 4 of Division 5 or any rule or regulation adopted pursuant thereto.

(11) Violated any provision of Part 5 (commencing with Section 10701) of Division 2 of the Revenue and Taxation Code or any rule or regulation adopted pursuant thereto.

1 (12) Violated any provision of Chapter 3332b (commencing
2 with Section 2981) of Title 14 of Part 4 of Division 3 of the Civil
3 Code or any rule or regulation adopted pursuant thereto.

4 (13) Submitted a check, draft, or money order to the department
5 for any obligation or fee due the state which was dishonored or
6 refused payment upon presentation.

7 (14) Has caused any person to suffer any loss or damage by
8 reason of any fraud or deceit practiced on that person or fraudulent
9 representations made to that person in the course of the licensed
10 activity.

11 For purposes of this paragraph, “fraud” includes any act or
12 omission which is included within the definition of either “actual
13 fraud” or “constructive fraud” as defined in Sections 1572 and
14 1573 of the Civil Code, and “deceit” has the same meaning as
15 defined in Section 1710 of the Civil Code. In addition, “fraud”
16 and “deceit” include, but are not limited to, a misrepresentation in
17 any manner, whether intentionally false or due to gross negligence,
18 of a material fact; a promise or representation not made honestly
19 and in good faith; an intentional failure to disclose a material fact;
20 and any act within Section 484 of the Penal Code.

21 For purposes of this paragraph, “person” also includes a
22 governmental entity.

23 (15) Failed to meet the terms and conditions of an agreement
24 entered into pursuant to Section 11707.

25 (16) Violated Section 43151, 43152, or 43153 of, or subdivision
26 (b) of Section 44072.10 of, the Health and Safety Code.

27 (17) Failed to repay a claim paid by the Consumer Motor
28 Vehicle Recovery Corporation as provided in subdivision (i) of
29 Section 11703.

30 (18) As a buy-here-pay-here dealer, violated any provision of
31 Chapter 11 (commencing with Section 7500) of Divisions 3 of the
32 Business and Professions Code or any rule or regulation adopted
33 pursuant to those provisions.

34 (b) Any of the causes specified in this chapter as a cause for
35 refusal to issue a license to a transporter, manufacturer,
36 manufacturer branch, remanufacturer, remanufacturer branch,
37 distributor, distributor branch, or dealer applicant is cause to
38 suspend or revoke a license issued to a transporter, manufacturer,
39 manufacturer branch, remanufacturer, remanufacturer branch,
40 distributor, distributor branch, or dealer.

1 (c) Except as provided in Section 11707, every hearing provided
2 for in this section shall be conducted pursuant to Chapter 5
3 (commencing with Section 11500) of Part 1 of Division 3 of Title
4 2 of the Government Code.

5 ~~SEC. 15.~~

6 *SEC. 13.* No reimbursement is required by this act pursuant to
7 Section 6 of Article XIII B of the California Constitution because
8 the only costs that may be incurred by a local agency or school
9 district will be incurred because this act creates a new crime or
10 infraction, eliminates a crime or infraction, or changes the penalty
11 for a crime or infraction, within the meaning of Section 17556 of
12 the Government Code, or changes the definition of a crime within
13 the meaning of Section 6 of Article XIII B of the California
14 Constitution.

15 ~~SEC. 16.~~

16 *SEC. 14.* This act is an urgency statute necessary for the
17 immediate preservation of the public peace, health, or safety within
18 the meaning of Article IV of the Constitution and shall go into
19 immediate effect. The facts constituting the necessity are:

20 In order to preserve public peace by prohibiting a person from
21 interfering with the transport of a vehicle to a storage facility,
22 auction, or dealer by a reposessor, it is necessary that this act take
23 effect immediately.